



**Testimony of Thomas A. Schatz, President
Citizens Against Government Waste
before the House Committee on the Budget
Thursday, May 25, 2006**

Mr. Chairman, members of the subcommittee, thank you for the opportunity to testify today. My name is Thomas A. Schatz. I am president of Citizens Against Government Waste (CAGW), a nonprofit organization made up of 1.2 million members and supporters, dedicated to eliminating waste, fraud and abuse in government. Citizens Against Government Waste has not received at any time any federal grant and we do not wish to receive any in the future.

CAGW was created 22 years ago after Peter Grace presented to President Ronald Reagan 2,478 findings and recommendations of the Grace Commission (formally known as the President's Private Sector Survey on Cost Control). These recommendations provided a blueprint for a more efficient, effective and smaller government. The line-item veto was one of those proposals.

Since 1984, the implementation of Grace Commission and other waste-cutting recommendations supported by CAGW has helped save taxpayers more than \$825 billion. CAGW has been working tirelessly to carry out the Grace Commission's mission to eliminate government waste.

H.R. 4890, the Legislative Line Item Veto Act of 2006, was introduced by Rep. Paul Ryan (R-Wisc.), and would grant the power of a line-item veto to the president. This legislation would help restore fiscal discipline in Washington.

The bill provides the authority for the President to identify a specific spending provision or tax break in legislation that is to be signed into law, and to presents a communication to Congress asking for the removal of the item. House and Senate leadership have two days to introduce the rescission request. After three days, any member of Congress is free to introduce the President's proposal.

Next, the rescission bill is submitted to the appropriate committee, which has five days to report the bill without substantive modification. The request is automatically discharged to the floor if the committee fails to act within five days. The full House and Senate must vote on the bill within ten days of its introduction, with a simple majority required to pass. Lastly, if the House and Senate approve of the rescission, it goes to the President and becomes law; if either fails, the proposal is not ratified.

There is a public perception that earmarks, or pork-barrel spending, have been around “since we were a country,” as Senate Minority Leader Harry Reid (D–Nev.) said. Nothing could be further from the truth. While Congress is granted the power under Article I, Section 9, Clause 7, which says “No money shall be drawn from the Treasury but by consequence of Appropriations made by Law,” the Founding Fathers expressed strong views on the limits of that authority.

Responding to a proposition by James Madison to improve a system of roads used in national mail delivery, Thomas Jefferson wrote the following on March 6, 1796:

Have you considered all the consequences of your proposition respecting post roads? I view it as a source of boundless patronage to the executive, jobbing to members of Congress & their friends, and a bottomless abyss of public money. You will begin by only appropriating the surplus of the post office revenues; but the other revenues will soon be called into their aid, and it will be a scene of eternal scramble among the members, who can get the most money wasted in their State; and they will always get most who are meanest.

President James Monroe argued in 1822 that federal money ought to be limited to “great national works only, since if it were unlimited it would be liable to abuse and might be productive of evil.”

President Grover Cleveland was labeled “king of the veto” in the late 1800s for refusing to sign numerous congressional spending bills. He explained this practice by stating, “I can find no warrant for such an appropriation in the Constitution.”

While the term pork-barrel spending was first used in the late 1800s comparing the rush toward tax dollars to the way slaves would crowd around barrels of salted pork at meal time, the practice was not widespread until the late 1980s. In particular, pork-barrel spending has exploded since the mid-1990s. Since 1991, CAGW's annual *Pig Book* has identified 76,420 examples of egregious pork-barrel spending, which has cost taxpayers \$241 billion. Examples from the 2006 *Congressional Pig Book* include:

- \$13.5 million for the International Fund for Ireland, which helped finance the World Toilet Summit;
- \$8.3 million for the Department of Defense for breath alcohol testing equipment;
- \$6.4 million for wood utilization research;
- \$5 million for the Capitol Visitor Center;
- \$4.2 million for shrimp aquaculture research;

- \$2.3 million for the International Fertilizer Development Center in Alabama;
- \$2.2 million for the MountainMade Foundation;
- \$1 million for the Waterfree Urinal Conservation Initiative;
- \$550,000 for the Museum of Glass in Tacoma, Washington;
- \$500,000 for the Sparta Teapot Museum in Sparta, North Carolina.;
- \$450,000 for plantings on the eastern front of the Capitol;
- \$250,000 for the National Cattle Congress in Waterloo, Iowa;
- \$234,000 for the National Wild Turkey Federation in Edgefield, South Carolina;
- \$150,000 for the Bulgarian-Macedonian National Education and Cultural Center in Pittsburgh, Pennsylvania;
- \$150,000 for the Actors Theater in Louisville, Kentucky; and
- \$100,000 for the Richard Steele Boxing Club in Henderson, Nevada.

For a brief period, the American people had hope that reform would reduce the assault on their wallets. In 1995, Congress passed the line-item veto by a voice vote in the House and a 69-31 vote in the Senate. This law was enacted after several previous failed efforts to pass such legislation.

Unfortunately, this new veto privilege was used sparingly by President Bill Clinton to cancel a mere \$355 million in fiscal year 1998 pork-barrel spending, less than .002 percent of that year's budget. Although the amount of waste that was removed was miniscule, members of Congress who had previously lauded the passage of the line-item veto began to question its legitimacy. This was clear evidence that even though the overall amount of money saved was relatively small, eliminating more waste would have had a substantial effect on the spending culture.

However, the Supreme Court took the line-item veto power away from the president in mid-1998, ruling the law unconstitutional.

The need still exists for a constitutional presidential line-item veto because Congress has confronted the president repeatedly with hastily-crafted, 11th-hour omnibus bills that cover all or substantial portions of federal spending for the year. This practice inhibits the exercise of the veto, which under such circumstances would have the effect of closing down the federal government. A line-item veto would enhance the president's

role in the budget process. It would not tilt the power over the nation's purse strings in favor of the president, but restore the balance that has been eroded by Congress' budget rules that favor spending and pork. As it does in 43 states, it would make both the legislative and executive branches more accountable for our tax dollars. While some have questioned whether a line-item veto at the federal level would threaten the separation of powers, experience with such authority at the state level indicates that would not be the outcome.

A line-item veto is necessary because under current law, the president's rescission proposals can easily be ignored. This luxury afforded Congress by the Budget and Impoundment Control Act of 1974 shifted the balance of power over spending, and that balance needs to be restored. It is an affront to common sense that while the president now can propose to rescind any portion of an appropriations bill, Congress is not required to vote on his rescission package. If Congress chooses to ignore the president's request, it expires after 45 days. The spending proposals stand as law.

Under H.R. 4890, the President would be authorized to defer or suspend signing an appropriations bill for up to 180 days, enough time to allow Congress to consider the President's rescission suggestions and to vote them up or down. By giving the president a bigger presence in spending decisions, fiscally sound legislation and not special interests would be the order of the day.

Concern that the line-item veto would give the president unlimited power is unfounded. The fear that the president could use the veto authority to expand his power exponentially and upset the checks and balances between the branches is addressed by restricting the president's veto power to disapproving specific line-items in appropriations bills. In this way, the line-item veto would not give authority to the president to alter the budget priorities set by Congress in its spending decisions, since the veto can only be used to withhold funds for an item.

As for the constitutionality of H.R. 4890, it is the opinion of former Assistant Attorney General Charles J. Cooper, that the proposal by the president passes that test. Mr. Cooper testified before the Senate Budget Committee on May 2, 2006, that the Legislative Line Item Veto Act of 2006 has been designed in a way that avoids what was previously deemed unconstitutional by the Supreme Court – specifically that a president cannot reject outright portions of a bill. If he disagrees with it, he must “reject it in toto.” Consequently, it was stated in the court's opinion that President Clinton's cancellation “prevent[ed] one section of the Balanced Budget Act of 1997 ... ‘from having legal force or effect,’” while allowing the remaining portions of the Act “to have the same force and effect as they had when signed into law.”

Mr. Cooper's testimony is especially significant because in 1997, he was on the opposite side of the line-item veto issue, when he represented the City of New York and healthcare associations and providers who were affected by President Clinton's use of the line-item veto on the Balanced Budget Act of 1997. That veto resulted in a reduction of almost \$1 billion in Medicaid subsidies for the State of New York. In *Clinton v. City of*

New York, 524 U.S. 417, 448 (1998) the Supreme Court struck down the Line Item Veto Act, stating “the Act’s cancellation provisions violate Article I, & 7, of the Constitution.”

As Mr. Cooper stated in his Senate testimony:

The Legislative Line Item Veto Act of 2006, in contrast, is framed in careful obedience to Article I, Section 7 and to the Supreme Court’s teaching in *Clinton*. The President is not authorized by the bill to ‘cancel’ any spending or tax provision, or otherwise to prevent such a provision ‘from having legal force or effect.’ To the contrary, the purpose of S. 2381, as President Bush put it in proposing the legislation, is simply to ‘provide a fast-track procedure to require the Congress to vote up-or-down on rescissions proposed by the President.’ Thus, any spending or tax provision duly enacted into law remains in full force and effect under the bill unless and until it is repealed in accordance with the Article I, Section 7 process – bicameral passage and presentment to the President.

For decades, the opportunities for purging wasteful government programs and reducing the size of government have been scarce. A line-item veto can provide opportunities for Congress and the president to work closely for a smaller, more efficient and less costly government.

The Government Accountability Office, Congress' own investigative agency, estimated in 1992 that a presidential line-item veto could have cut \$70.7 billion in pork-barrel spending from fiscal years 1984 through 1989. That's \$70.7 billion in unnecessary spending taken out of the hands of the private sector.

The line-item veto would help restore control over the budget process. This, in turn, would promote fiscal soundness, efficient government, and policies favorable to continued economic growth. A line-item veto, over time, would reduce the inclusion of unauthorized, non-competitive projects in appropriations bills and require increased cooperation between Congress and the executive branch in determining which programs truly need to be funded with the taxpayers’ money.

CAGW realizes that while pork-barrel spending is a serious problem, it affects a relatively small portion of the budget, and more needs to be done to limit the growth of entitlements and other government expenditures in order to bring the budget back into balance. However, that does not mean that a line-item veto, which receives a great deal of attention because it is tied to some of the most egregious examples of wasteful spending, should be delayed until other budget problems are addressed or solved.

Mr. Chairman, the line-item veto would allow the president to weigh parochial expenditures which benefit the few against the common good and the priorities of the many. The American people know the way business is done in Washington, and they are seeking changes. A recent Wall Street Journal/NBC News poll reported that “among all Americans, a 39 percent plurality say the single most important thing for Congress to

accomplish this year is curtailing budgetary ‘earmarks’ benefiting only certain constituents.”

Successive presidents have asked Congress to provide them with the line-item veto. Congress must show that it is serious about controlling spending by passing legislation giving the president the line-item veto. The time is now to pass a constitutional version of that legislation.

This concludes my testimony. I will be glad to answer any questions.